

Subject Consulting Parties Meeting #18  
 Project BNSF Bismarck Bridge Replacement Project  
 Prepared by Abby Korte, Aimee Angel, Lori Price  
 Location GoTo Remote Meeting

<b>Meeting Date</b>	<b>Meeting Duration</b>	<b>Meeting ID</b>
September 22, 2021 3:06 PM EDT	174 minutes	915-010-597

Name/Affiliation	Email Address or Phone		Join Time	Leave Time
	Number			
Unknown	[REDACTED]		3:07 PM	6:00 PM
Unknown	[REDACTED]		4:45 PM	6:00 PM
Ron Henke/ND DOT	[REDACTED]		3:06 PM	5:32 PM
Signe Snortland/FORB	[REDACTED]		3:08 PM	5:55 PM
Austin Hurst/BNSF	[REDACTED]		3:06 PM	4:43 PM
Abby Korte/Jacobs	[REDACTED]		3:06 PM	4:58 PM
Aimee Angel/Jacobs	[REDACTED]		3:07 PM	6:00 PM
Alexis Clark/ACHP	[REDACTED]		3:06 PM	6:00 PM
Amy McBeth/BNSF	[REDACTED]		3:06 PM	5:13 PM
Brian Dunn/USCG	[REDACTED]		3:06 PM	6:00 PM
Chris Wilson/ACHP	[REDACTED]		3:06 PM	6:00 PM
David Mayer/Bismarck Parks and Recreation District	[REDACTED]		3:07 PM	5:45 PM
Elizabeth Merritt/NTHP	[REDACTED]		3:06 PM	6:00 PM
Erik & Amy Sakariassen/Fort Abraham Lincoln and NTHP	[REDACTED]		3:06 PM	6:00 PM
Jim Neubauer/City of Mandan	[REDACTED]		3:27 PM	6:00 PM
Kim Lee/City of Bismarck	[REDACTED]		3:13 PM	5:56 PM
Lori Price/Jacobs	[REDACTED]		3:06 PM	6:00 PM
Matt Robertson/USCG	[REDACTED]		3:07 PM	6:00 PM
Mike Herzog/BNSF	[REDACTED]		3:06 PM	6:00 PM
Nathan Loftice/BNSF	[REDACTED]		3:54 PM	4:44 PM

Rob McCaskey/USCG		3:06 PM	6:00 PM
Shelly Sugarman/USCG		3:07 PM	6:00 PM
Susan Wefald/FORB		3:07 PM	4:41 PM
VelRey Lozano/EPA		3:06 PM	4:59 PM
Emily Sakariassen/PND		3:06 PM	6:00 PM

Rob McCaskey - Roll call and introductions

Brian Dunn -

The main purpose of this call is to go over the comments received on the draft Section 106 MOA. Before we do that, here is a quick review of the MOA process to-date.

During the first MOA meetings with Consulting Parties, we sought potential ideas to mitigate impacts to the existing bridge and requested that the parties rank the ideas in order of importance.

During subsequent meetings, we requested that interested Consulting Parties present their ideas with specific information, including a description, cost, responsible entity, a timeline, etc. We received information from some of the parties, but not enough detail to include in the MOA.

Lacking specific mitigation project information, I presented a proposal during the June 10 Consultation Meeting to focus the MOA to include three lines of mitigation efforts:

1. Documentation, including HAER;
2. A grant program with an entity designated to coordinate review, approval, and distribution of funds for mitigation projects; and
3. Salvage of components of the existing bridge

Under this concept, the previously proposed mitigation ideas would be addressed through the grant program. The USCG is moving forward with these three lines of mitigation. There were seven votes in support of this approach and no votes in opposition. As a result of your comments/concurrence, we revised the draft MOA with those three sections in lieu of specific project proposals.

A number of the comments we received when we sent out the revised MOA related to the Draft Environmental Impact Statement, mitigation projects previously discussed, Vibration Damages, Documentation, and Concurring Parties. I will address those topics broadly now and then Lori Price will share her screen and walk through the draft MOA to address other comments that do not fit into these broader categories.

1. NEPA – NEPA process vs. Section 106 process. Stipulations III and IV of the Section 106 PA provided an opportunity for new alternatives, specifically addressing the flood plain rise, that

would facilitate retention of the existing bridge to be proposed and evaluated during the NEPA process. However, no new feasible proposals were introduced to be evaluated. Stipulation V of the Section 106 PA identified requirements for future governance, maintenance and operation of the existing bridge if it were to be retained. The Coast Guard determined the requirements in Stipulation V of the Section 106 PA had not be fulfilled and that the consulting parties should concentrate on mitigation for removal of the existing bridge. This decision did not impact the DEIS which evaluated three alternatives that provide for retention of the existing bridge. No determination on a preferred alternative has been made. Does anyone have any questions or comments about this topic?

2. A number of mitigation projects were proposed during the PA development and in subsequent consultations as we began drafting the MOA. These projects were not carried into the revised draft of the MOA. The revised draft PA would establish a grant program to review, approve, and distribute funds for mitigation projects. Does anyone have any questions or comments about this topic?
3. Damage to historic properties due to vibration is discussed in Stipulation II of the PA. The APE for vibration cannot be established until the construction footprint is fully known. Then any historic properties within that APE will be identified. If vibration impacts occur, they will be addressed as specified in the PA. Does anyone have any questions or comments about this topic?
4. The draft MOA calls for Level I Historic American Engineering Record (HAER) Documentation. We received comments calling for specific types of documentation that did not correspond to HAER documentation levels. We have created a table comparing the different proposed documentations. When we get to that section of the draft MOA, Lori will walk through the table and provide an opportunity to discuss what documentation is preferred.
5. Some of the signatories to the PA are now Concurring Parties. Only those parties that have actions in the stipulations of the MOA are signatories. Parties that do not have any actions as part of the stipulations of this MOA will become concurring parties.

Lori Price - Shared screen to cover comments to the MOA.

- Signe Snortland – *Requested that the cultural resources survey report be distributed.* The report was distributed with all other materials.
- Signe Snortland – *Borrow and staging areas need to be reviewed.* The borrow and staging areas are not yet identified and won't be until a contractor is on board. Once identified, the APE will be amended and survey etc. will take place.
  - Action: Added a clause stating that the MOA would be amended if historic properties are identified within the revised APE.
- PND – *Has survey occurred and concurrence received from SHPO?* Yes, we can confirm that survey has occurred, and concurrence was received from SHPO. SHPO concurrence was also provided on the visual resources APE. Another Whereas clause was added to capture this information. The materials were distributed to the parties.

- Determination of eligibility of bridge approaches was completed and sent along with the draft MOA.
- Betsy Merritt (National Trust for Historic Preservation [NTHP]) – Comments do not appear to have been received by Jacobs and have not been incorporated into the draft MOA. Will bring up comments as we go through the document and will forward it to Jacobs.
  - Lori Price – Comments were not received from NTHP. After the call, those comments were provided by the USCG.
- Betsy Merritt– *What is the process for resolving disagreement about the no effect determination provided for the visual APE?*
  - Lori Price – Maybe we need to have another meeting to review issues associated with comments on the visual effects.
  - PND authored a letter disagreeing with the assessment of visual effects.
  - Lori Price – The visual effects assessment took all those comments into account. We have not received any comments on the visual effects assessment.
  - PND still holds to their opinion in that letter.
  - A meeting will be scheduled to discuss the concerns PND has with the visual effects report.
- Brian Dunn – The USCG received a concurrence letter from SHPO to move to Stipulation VI but not the ACHP.
  - Chris Wilson – A request is being processed for the ACHP concurrence letter but the ACHP has no concerns with moving to Stipulation VI.
- Signe Snortland – *Objects to signing the MOA as acceptance of the process.* Comment noted and text removed. Lori Price provided an explanation of the process.
- Signe Snortland – *Proposes Northern Plains Heritage Foundation (NPHF) be the administrator of the grant program.* This will be discussed later in the document.
- THPO (Ms. Limpy) – Lori Price read her comment verbatim. Rob McCaskey stated that he has followed up with two emails providing his email, phone, and address for follow up. No response received to date.
- Signe Snortland – *Requests how the \$500,000 mitigation amount was determined.*
  - Mike Herzog – Explained that \$500,000 is commensurate with the loss of the bridge based on other bridge replacements that BNSF has undergone and the associated mitigation amounts.

- Betsy Merritt – Believes this amount is grossly inadequate and not commensurate with the importance of the bridge.
- PND/FORB – Agrees with the NTHP that \$500,000 is not enough.
- Amy Sakariassen – Believes this estimate undervalues the structure which she thinks is comparable to the Twin Towers in New York.
- Mike Herzog – Stated that everyone thinks that their bridge is extra special. However, all bridge replacement projects BNSF is basing this on are of a similar age. Requested whether the ACHP/NTHP have provided examples of mitigation on other similar bridge replacement projects. No response from group.
- Emily Sakariassen – Stated that SHPO indicated potential for this bridge to be a National Landmark. Therefore, believes value assigned should be commensurate with a National Landmark.
- Amy Sakariassen – Noted that this is the only privately owned bridge on the 11 most endangered bridges list.
- Betsy Merritt – Stated that she and Chris Wilson should follow up and provide other examples of mitigation amounts.
- Chris Wilson – Clarified that definition of "commensurate" is a judgement call. The significance of this bridge has been demonstrated through consultation. He will work with Betsy to find other examples and share it with the Coast Guard for distribution.
- Signe Snortland – *Concerns over vibration impacts.* The PA has an entire stipulation regarding vibration monitoring and impacts. The stipulation is detailed and specific about what will happen if there is damage to a historic property (Stipulation II C.5)
- PND – *How were the cost estimates for the different mitigation measures determined?*
  - Lori Price – HAER cost estimate was provided by Jacobs as Jacobs provides this service all around the country. Estimates for large format photography and time lapse photography require specialized equipment and accordingly, Jacobs got those scopes of work from subcontractors. All other costs were provided by the consulting parties.
- Betsy Merritt - *The mitigation does not specify that SOI qualified cultural resources staff are required to complete the documentation.*
  - Lori Price – There is an administrative stipulation stating that all work must be completed by SOI qualified personnel. Additional text can be added to clarify this.
- Signe Snortland – *Why was HAER Level I specified in the MOA and not the PA?*
  - Lori Price – SHPO specifically requested Level I documentation. The PA notes ongoing discussions with SHPO regarding the level of documentation.

- FORB position – Just do the Level I HAER and put the rest of the money in the grant program fund.
- Brian Dunn – the pot of mitigation dollars (currently \$500,000) will be split among the three lines of mitigation.
- Lori Price discussed the Documentation Comparison Table
  - PND – *What is the justification for 3-D modeling?* 3-D modeling was requested by the City of Bismarck Historic Preservation Commission. Where does this fall on people's wish list? Is this something the public would be able to access? This would fall to the bottom of PND wish list.
  - Amy Sakariassen – The commission did not have an intended use for the modeling in mind when they made the request. The commission wanted mitigation that would provide the most information possible. Does not think the commission would be upset if this was not carried forward.
  - Chris Wilson discussed HAER documentation. HAER documentation is the most stable format that we have. It is held in perpetuity and accessible on the NPS website. Need to think about the fact that there is a finite amount of money and the costs of mitigation versus public benefit. Salvage can use a significant amount of money, for example, that could result in a lot less money available for other types of mitigation. Need to figure out what is the best way for the money to be spent.
  - PND asked that we discuss the three lines of mitigation: Documentation, grants, and salvage.
- Susan Wefald - *Do bridge design enhancements also come out of the \$500,000?*
  - Brian Dunn – Yes. Everything comes out of the one pot of money. It is a fourth line of effort that is sort of tied into the money.
  - Susan Wefald – Disagrees that bridge design enhancements be tied into same pot of money.
- Lori Price – Discussed salvage opportunities and the date for gathering information regarding salvage.
  - Mike Herzog asked to have salvage information from interested parties up front. Having this information to provide to contractors during the request for proposal process will inform contractors on their means and methods to include in the bidding process and to obtain the most favorable price. The request for proposal process is scheduled to move forward in the 4<sup>th</sup> quarter of the year. The price for salvage includes equipment, labor to remove the item, delivery, equipment on the receiving end, etc. He also stated that, depending on the contract bid, some parts of the bridge may be removed and provided at no cost. Other parts may have a significant cost to remove and transport.

- PND – *Who is interested in salvage?*
  - Brian Dunn – There are 6-7 interested parties. A sub-group consisting of those who expressed interest in salvaged parts will be convening and coordinating with ND DOT. A date for a meeting with this group is to be determined. ND DOT has committed to help with coordination and provide some storage space for salvage parts in the short term.
  - PND – Expressed interest in hearing the results of the sub-group as salvage wasn't in the top 10 of mitigation strategies and is concerned salvage will impact the funding of the grant
  - Susan Wefald asked about salvaging the pier that is located on land. Mike Herzog followed up with an email to NDDOT (Ron Henke) on September 27 stating that BNSF is not open keeping the two existing land piers on BNSF property. However, BNSF is open to proposed mitigation that includes salvaging and repurposing pier materials for use on non-BNSF property.
- Lori Price brought up Lorna Meidinger's additional mitigation suggestion of incorporating a piece of the bridge into a pocket park with interpretive signage. We will forward Lorna Meidinger's original email with this example to the consulting parties.
- Chris Wilson asked Brian Dunn to discuss the necessity of the sub-group and why moving forward.
  - Brian Dunn discussed the need to move forward quickly to identify what pieces of the bridge may be wanted and how they would be used in order to incorporate this info in BNSF's request for proposals.
  - Ron Henke is looking to schedule a meeting next week or the first week in October. ND DOT has some former aggregate pits that might be able to be used for storage of the salvaged parts, as long as they can be stored outside.
- Betsy Merritt – *What is the timing between the USCG issuing the permit and BNSF getting bids? Are they allowed to circulate an RFP prior to getting approval from the USCG?*
  - Brian Dunn – *Yes, but the applicant takes the risk that the permit decision could be negative. In addition, it is typical for a contractor to go out with an RFP to assist with budgeting a project.*
- Signe Snortland – *Recommends the NPHF be named grant administrator.*
  - SHPO wants to be very involved in the decision-making process should SHPO not be named administrator.
  - Lori Price read a comment sent in by Kathy Spillman who disagrees with NPHF being named administrator. She would like SHPO to be named grants administrator.
  - NPHF has not been contacted by USCG.

- Emily Sakariassen said NPHF is interested in having the conversation about becoming the grants administrator and SHPO already has a role on their board.
- Brian Dunn - *Looking for input from group on a grant administrator. Want to ensure that whoever is named has the experience and capability to administer the grant and also has the longevity as an organization.*
- Signe Snortland – *Limiting the grant money to projects that have a direct tie to the bridge is too limited in scope.*
  - Kathy Spillman feels that potential grant projects should be specifically tied to the bridge.
  - Chris Wilson – It was my understanding that the grant would be used for a wide array of historic properties. Limiting the grant funds also poses a risk that that the funds will not be distributed.
  - Mike Herzog – BNSF wholeheartedly supports only mitigation for the demolition of the bridge. BNSF is not interested in other pet projects around North Dakota.
  - PND - The current language leaves out the tribal associations with the bridge. PND is open to discussing how the language could be more broadly applied to the bridge.
- Betsy Merritt – *Ninety days after the new bridge is placed in service is too long of a wait to put mitigation funds for the grant into the escrow account. Grant funding should be deposited much sooner than that, perhaps tied to the ROD.*
  - Brian Dunn – Ninety days after the new bridge is in service is probably about when demolition of the new bridge would start. There would probably not be impacts to the historic bridge prior to this time. USCG is open to discussion on a new date.
- PND – Reiterated their support for this mitigation item.
  - Signe Snortland expressed concern that salvage will take too much money away from the grant program.
  - Brian Dunn – sub-group will be made aware that salvage is not a priority for the overall consulting parties. Salvage parts can also be used for other types of projects, such as a Parks and Recreation project, that has a different funding source.
  - Chris Wilson – Grants may be matched in the future by local entities. There is also the possibility that it could be turned into a revolving fund of some sort.
- Mike Herzog – *BNSF envisions the salvage component as having a prioritized list of items to salvage (not a wish list). There would be alternate items that would be included with the list. This is not a large group discussion.*
  - Brian Dunn – The larger group discussion would be around the funding of the 3 line items.



- Amy Sakariassen – *Should the idea of the 3-D modeling be brought back up to the City of Bismarck Historic Preservation Commission?*
  - Brian Dunn – Having more information would be beneficial. Knowing what priority level the commission places on this mitigation item would be helpful.
- Lori Price – Discussed the final recommendations of the BAC which include:
  - Use of a horizontal, uncomplicated design.
    - To change to steel approaches would cost approximately \$3 million
  - Texture or pigment of concrete approaches
    - The cost to apply pigment is approximately \$30,000. Would not be applied to piers.
    - Amy Sakariassen is pleased that this concept is being considered
    - Mike Herzog - Texturing below the 100-year flood event would affect the hydraulic modeling so texturing would have to be above that – BNSF does not want to pursue texturing only on portions above that water line.
  - Incorporating Native American symbols - USCG was not comfortable with this so it was not moved forward.
    - Signe Snortland – Why were Native American symbols inappropriate?
    - Brian Dunn - USCG not comfortable with incorporating Native American symbols because there was no tribal consultation.
    - Amy Sakariassen - Tribes were talked to. A representative from the United Technical College was a part of that BAC. The college has ties to numerous tribal entities
    - Brian Dunn – Tribal consultation was not conveyed anywhere in the BAC report but the topic can be discussed further.
- Signe Snortland – Does BNSF staff meet the Professional Qualifications stipulation?
  - Lori Price - BNSF would hire a consultant who meets the SOI qualifications.
- Lori Price – Discussed change in the duration of the document to line up with the PA.
  - Betsy Merritt – Would like Chris Wilson to look at the language. Would like the duration to be more specific, for example to say the MOA is valid for 10 years.
  - Chris Wilson will send some stock language that can be used to clarify this stipulation.
  - Brian Dunn added commentary on the decision to use the 10-year time frame.

- Lori Price – Added a post-discovery clause to the MOA. It refers to the PA.
- Lori Price – Discussed the reporting language.
  - Betsy Merritt – Language about periodic meetings is too "squishy." Recommend quarterly or semi-annual meetings.
  - Mike Herzog – This is the same frequency we have used in other MOAs. And this time period has worked well. Don't think there will be items that need to be worked out once the MOA is implemented.
  - Brian Dunn agrees with Mike Herzog. And if there was a reason to have additional meetings, the USCG would do that.
  - Signe Snortland – Agrees with Betsy Merritt that the language should be tightened up.
  - Chris Wilson – Would like the USCG to be in the first position to determine if additional meetings are necessary.
  - Signe Snortland – There is information regarding the monitoring for vibrations that we would want to know about.
  - Brian Dunn – Does not want to require unnecessary meetings and does not want to tie everyone into something that may not be necessary. USCG will hold meetings, if necessary.
- Betsy Merritt – *All consulting parties should have a voice in the dispute resolution. The new language limits dispute resolution to Signatories and Concurring Parties.*
  - Signe Snortland withdraws her comments based on Betsy Merritt's recommendation.
  - Chris Wilson – This is the standard procedural language.
  - Mike Herzog – BNSF prefers to use the language that has always been used.
  - Chris Wilson – Would be shocked and disappointed if everyone does not sign this document.
  - Betsy Merritt – NTHP does not typically sign MOAs.
  - Chris Wilson – We (the ACHP) think you should sign.
- Betsy Merritt – It would be useful to use emails and phone numbers on the signature pages.
  - Brian Dunn – Points of contact often change. Emails are personal to the person in the position. Phone numbers tend to remain within the organization even if the point of contact is no longer in that position. If people are ok with their email being used, that is fine.

- Brian Dunn – Salvage subgroup is being formed. Hope to move forward within the next two weeks.
- Brian Dunn - Next steps:
  - Send out revised MOA reflecting comments and discussion from today for comment
  - Look at getting into a final document for the next time around
  - Preparing comment responses for the DEIS – those responses will be included in the final EIS when it is published on regulations.gov. Should be published in the next couple of months.

Meeting adjourned at 6:00pm.